

Resolution was ordered engrossed by the following vote:

YEAS—16.

Buchanan of Grimes,	Lair,	Stubbs,
Buchanan of Wood,	Lightfoot,	Swain,
Cooper,	Martin of Cooke,	Tilson,
Davenport,	Martin of Navarro,	Weatherred,
Hightower,	Shannon,	Wynne.
Homan,		

NAYS—5.

Henderson,	Powers,	Terrell.
Houston,	Stewart,	

NOT VOTING—4.

Burges,	Patton,	Ross.
Lane,		

Senator Moore was paired with Senator Patton. The former would have voted aye; the latter no.

Senator Gooch moved that Senator Houston be excused for to-morrow. Adopted.

On motion of Senator Homan. Senate adjourned till 9:30 to-morrow morning.

FORTY-SIXTH DAY.

SENATE CHAMBER, }
AUSTIN, March 5, 1881. }

Senate met pursuant to adjournment; President in the chair.

Roll called; quorum present.

Prayer by Rev. Mr. Glass.

On motion of Senator Rainey, the reading of the journal of yesterday was dispensed with and the same adopted.

On motion of Senator Davenport, Senator Terrell was excused until 3 o'clock to-day on account of sickness.

On motion of Senator Martin of Navarro, Senator Martin of Cooke was excused for the day on account of sickness.

On motion of Senator Gooch, Senators Duncan and Martin of Cooke were excused for absence from the Senate Chamber during the night session of yesterday, and Senator Rainey was excused for his absence at the same time, on account of important business.

Senator Tilson, chairman of Committee on Private Land Claims, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 4, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Private Land Claims, to whom was referred House bill No. 424, entitled "An act to authorize and require the Commissioner of the General Land Office to issue a certificate for one league of land to the heirs of Moses Herring," have duly considered the same, and I am instructed to report said bill back to the Senate with the recommendation that it do pass.

TILSON, Chairman.

Bill read first time.

Senator Davenport, by request, introduced a bill entitled "An act allowing collectors of taxes compensation for services rendered in selling lands where the same were purchased by the State." Referred to Judiciary Committee No. 1.

Senator Buchanan of Wood introduced a bill entitled "An act for the relief of John P. Williams, late sheriff of Wood county." Referred to Committee on Finance.

The following House concurrent resolution was laid before the Senate:

Resolved by the House of Representatives, the Senate concurring, That 11 o'clock A. M. on Monday, the seventh day of March proximo, be fixed as the time for the present Legislature to elect, as required by law, six directors of the Agricultural and Mechanical College of Texas to serve the ensuing two years, and that the Senate be respectfully invited to meet this House in joint session at said time to elect such directors.

Senator Henderson offered the following amendment: Amend the resolution by striking out "seventh," as the

day for said election, and insert instead thereof the "fourteenth." Adopted.

House bill No. 235, "An act to amend sections 1, 3, 5 and 7 of an act entitled 'an act to protect the wool-growing interest of the State of Texas,' approved March 25, 1879," was taken up, read second time.

On motion of Senator Powers, the bill was laid on the table for the present.

House bill No. 481, "An act to amend section 11 of an act entitled 'an act to protect the wool-growing interest of the State of Texas,' approved March 25, 1879," was taken up, read second time and passed to a third reading.

Senate bill No. 52, "An act to regulate the practice of medicine, surgery and pharmacy, and to repeal chapter 3, of the Penal Code," was taken up, the amendment of Senator Wynne pending. Amendment read and adopted.

Senator Burges offered the following amendment: Amend by adding:

Sec. 11. Whenever any board organized under this act shall refuse to any applicant a certificate of qualification, said applicant shall have the right to appeal from their decision, and upon his giving notice to said board of his desire to appeal the secretary of said board shall, without delay, notify the presidents of the three nearest boards of examiners organized under this act; whereupon said presidents shall each appoint one member of his board, and the three thus appointed shall constitute a board of appeals, and shall assemble at the county site nearest to two of them, of which the appellant shall have timely notice, and the said board of appeals shall proceed to examine the appellant, and if they find him qualified under this act, they shall grant him the certificate provided for in this act, and if they find him not qualified, they shall affirm the action of the board refusing him the certificate; *provided*, that such appellant shall pay to the board of appeals before he is examined by them as costs for their use the sum of thirty dollars.

Adopted.

Senator Powers offered the following amendment: Amend section 6, line 3, page 4, by striking out the words "recognized by said boards." Lost.

Also, the following: Amend section 3a: Strike out the proposed oath of office, and insert in lieu thereof the oath of office prescribed in section 16 of the Constitution.

Senator Cooper offered the following substitute for the amendment of Senator Powers: Add after the word "office," in line 9, page 2, as follows: "in addition to the constitutional oath of office."

Senator Homan moved the previous question on the bill and amendments. Motion seconded and main question ordered.

Substitute adopted, and made part of the bill, and bill ordered engrossed.

Senator Lane moved to suspend rules to take up Senate bill No. 51, "An act to adjust the indebtedness of the State to the permanent school fund, and make an appropriation therefor." Adopted.

Bill read second time, with report of committee.

Senator Lane offered the following amendment: Amend by adding the following section:

Sec. — The near approach of the close of the session, and the fact that from the great number of bills upon the President's table, there is little or no probability that this bill will be reached in its regular order, which creates an imperative public necessity that the constitutional rule requiring this bill to be read on three several days be suspended, and it is so enacted.

Adopted, and bill ordered engrossed.

Senator Patton, chairman of the Committee on State Affairs, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 5, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on State Affairs have examined Senate bill No. 195, entitled "An act to provide for having the products of Texas represented at the World's Fair, to be holden in the city of New York, in the year A. D. 1883, and to appropriate money therefor," and they direct me to report that the objects of said bill are provided

for by a clause in the general appropriation act which has passed the Senate at this session, and for this reason to recommend that the bill do not pass.
PATTON, Chairman.

Bill read first time.

Senator Lane moved to suspend the rules to place Senate bill No. 51 on its third reading. Adopted by the following vote:

YEAS—26.		
Buchanan of Grimes	Homan,	Ross,
Buchanan of Wood,	Lair,	Shannon,
Burges,	Lane,	Stewart,
Cooper,	Lightfoot,	Stubbs,
Davenport,	Martin of Cooke,	Swain,
Duncan,	Martin of Navarro,	Tilson,
Gooch,	Moore,	Weatherred,
Henderson,	Putton,	Wynne.
Hightower	Rainey,	
NAYS—none.		
NOT VOTING.		
Powers.		

Bill read third time passed by the following vote:

YEAS—28.		
Buchanan of Grimes	Homan,	Rainey,
Buchanan of Wood,	Lair,	Ross,
Burges,	Lane,	Shannon,
Cooper,	Lightfoot,	Stewart,
Davenport,	Martin of Cooke,	Stubbs,
Duncan,	Martin of Navarro,	Swain,
Gooch,	Moore,	Tilson,
Harris,	Putton,	Weatherred,
Henderson,	Powers,	Wynne.
Hightower,		
NAYS—none.		

Senator Lightfoot, by leave, introduced a bill entitled "An act to amend article 1042 of the Revised Civil Statutes of the State of Texas." Referred to Judiciary Committee No. 1.

Senator Wynne, by leave, introduced a bill entitled "An act to amend article 4333 of the Revised Civil Statutes of the State of Texas, adopted February 21, 1879, and to provide for the registration of instruments relating to real estate in unorganized counties." Referred to Judiciary Committee No. 1.

Senate bill No. 18, "An act regulating juries in capital cases," was taken up, the amendment of Senator Houston pending.

Senator Henderson offered the following substitute for pending amendment and bill:

Amend by substituting the following for Senate bill No. 18:

An act to amend articles 605 and 612 of chapter 2, title 8, of the Code of Criminal Procedure, entitled "of the special venire in capital cases."

Be it enacted by the Legislature of the State of Texas, That articles 605 and 612 of chapter 2, title 8, of the Code of Criminal Procedure, shall be so amended as to hereafter read as follows:

Article 605. A "special venire" is a writ issued by order of the district court in a capital case, commanding the sheriff to summon it certain number of persons, not less than thirty-six, to appear before the court, on a day named in the writ, from whom the jury for the trial of the cause is to be selected.

Article 612. When from any cause there is a failure to select a jury from those who have been summoned upon a special venire, the court shall order the district clerk to draw from the list of jurors for the term, remaining in the box, and not summoned on the original special venire, in the same manner as is prescribed for drawing the venire in Article 610 of this chapter, the required number of jurors, and said clerk shall forthwith draw the same and issue a writ therefor and deliver it to the sheriff, who shall at once proceed to make service thereof; and if the list of jurors remaining in the box be exhausted before the completion of the jury, or if no jury list for the term has been drawn by the jury commissioners, then the judge shall appoint three disinterested and impartial jury commissioners, possessing the qualifications as prescribed in article 3017, chapter 2, title 57, of the Revised Civil Code, and who shall, except as herein provided, be governed by the provisions of said chapter;

and said jury commissioners, after having been appointed and sworn, shall immediately, in presence of the court, prepare from the qualified jurors of the county, a jury list, as provided in chapter 2 and chapter 4 of said title 57, of at least three times the number of jurors ordered by the court, from which said list so prepared, the district clerk, in the presence of the court, shall immediately draw, in the same manner as prescribed in article 610, the required number of jurors, as ordered by the court, and shall at once deliver to the sheriff a certified list thereof, who shall proceed to serve and return the same as required by the court. If, however, the court should become satisfied that the delay will be too great in the summoning of talesman by the means hereinbefore provided, then he shall order the sheriff to summon such talesmen, as the court may deem necessary for the completion of the jury; and should said sheriff not have in attendance a sufficient number of deputies for the expeditious discharge of the duties herein imposed, then the judge shall appoint, and qualify, a sufficient number of bailiffs, who shall assist in summoning said jurors.

Senator Martin of Cooke moved that in consideration of the necessary absence of Senator Houston, the author of the bill, the Senate postpone action on it till Tuesday next. Adopted, and bill so postponed.

Senate bill No. 24, "An act to establish a board of public health for the State of Texas," was taken up and read second time, with report of committee, and on motion of Senator Homan the adverse report of committee was adopted and bill lost.

Senate bill No. 29, "An act for the encouragement of agriculture and the collection of agricultural statistics," was taken up and read second time, with adverse report of committee.

On motion of Senator Martin of Navarro, the report of the committee was adopted and the bill lost.

Senate joint resolution No. 29, "An act to amend section 11 of article 1 of the Constitution of the State of Texas," was taken up and read second time, with substitute of committee.

Senator Lane offered the following amendment to committee substitute:

Amend the substitute by inserting after the word "of," "or below." Adopted, and committee substitute, as amended, adopted, and resolution ordered engrossed.

Senate joint resolution No. 35, instructing the Senators and requesting the Representatives of Texas in the Congress of the United States to secure deep water at the mouth of the Brazos river," was taken up and read second time.

Senator Powers moved to lay the resolution on the table. Adopted.

Senator Buchanan of Wood, chairman of Committee on Education, by leave, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 5, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Educational Affairs, have considered Senate bill No. 238, entitled "An act to amend title 25 of the Revised Civil Statutes, by adding another article, to be styled article 989a, providing that the county treasurer shall be the custodian of moneys arising from the sale of county school lands, and give bond for the safe keeping of the same," and I am instructed by said committee to report said bill back to the Senate, with the recommendation that it do pass.

BUCHANAN of Wood, Chairman.

Bill read first time.

Senator Buchanan of Grimes, chairman of the Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 5, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate joint resolution No. 30, "Proposing an amendment to article 16, section 20 of the Constitution of the State of Texas," and find the same correctly engrossed.

BUCHANAN of Grimes, Chairman.

The following message was received from his Excellency the Governor:

EXECUTIVE OFFICE,
AUSTIN, March 5, 1881.

To the Honorable Senate of Texas, in the Legislature assembled:

I respectfully submit the following named persons for appointment and confirmation to the following offices:

Dr. Richard M. Swearingen, of Travis county, to be Medical Health Officer for the State.

The following named persons to be commissioners of pilots for port of Corpus Christi: Messrs. N. Gussett, George French, merchants; Benjamin Gravitt, Wm. Anderson and Wm. Biggis, seamen.

Respectfully, O. M. ROBERTS, Governor.

On motion of Senator Powers, the Senate agreed to go into executive session on the appointments of the Governor on Monday morning next just after the morning call.

Senate bill No. 37, "An act to amend articles 4796 and 4797, chapter 1, title 96, of the Revised Civil Statutes, adopted February 21, 1879," was taken up and read second time.

Senator Stubbs offered the following amendment: Amend by adding:

Sec. 2. The near approach of the close of the session creates an imperative public necessity for the suspension of the rule requiring bills to be read on three several days, and it is so suspended; and the necessity for a statute upon this subject, free from the difficulties of the present law, creates an emergency that this act go into effect from and after its passage, and it is so enacted.

Adopted and bill ordered engrossed.

(Senator Buchanan of Wood in the chair.)

On motion of Senator Stubbs, the rules were suspended and bill placed on its third reading by the following vote:

YEAS—25.

Buchanan of Grimes	Homan,	Powers,
Buchanan of Wood,	Lair,	Rainey,
Burges,	Lane,	Ross,
Cooper,	Lightfoot,	Shannon,
Davenport,	Martin of Cooke,	Stubbs,
Duncan,	Martin of Navarro,	Tilson,
Gooch,	Moore,	Weatherred,
Henderson,	Patton,	Wynne.
Hightower,		

NAYS—none.

NOT VOTING—2.

Stewart,

Swain.

Bill read third time and passed by the following vote:

YEAS—26.

Buchanan of Grimes	Lair,	Ross,
Buchanan of Wood,	Lane,	Shannon,
Burges,	Lightfoot,	Stewart,
Cooper,	Martin of Cooke,	Stubbs,
Duncan,	Martin of Navarro,	Swain,
Gooch,	Moore,	Tilson,
Henderson,	Patton,	Weatherred,
Hightower,	Powers,	Wynne.
Homan,	Rainey,	

NAYS—none.

NOT VOTING.

Davenport.

Senate joint resolution No. 37, proposing an amendment to article 5 of the Constitution of the State of Texas," was taken up and read second time.

On motion of Senator Gooch, it was postponed for the day.

Senate bill No. 39, "An act to amend chapter 17, title 17, of the Penal Code and Code of Criminal Procedure, adopted by the Sixteenth Legislature, relating to swindling and fraudulent disposition of mortgaged property, by adding article 797a," was taken up and read second time, with majority and minority reports.

Senator Tilson moved to adopt the minority report.

Senator Homan to substitute the majority for the minority report.

Sig. 22.

Majority report lost and minority report adopted by the following vote:

YEAS—11.

Buchanan of Grimes	Homan,	Shannon,
Buchanan of Wood,	Martin of Cooke,	Weatherred,
Cooper,	Moore,	Wynne.
Henderson,	Patton,	

NAYS—14.

Burges,	Lair,	Rainey,
Davenport,	Lane,	Stubbs,
Duncan,	Lightfoot,	Swain,
Gooch,	Martin of Navarro,	Tilson.
Hightower,	Powers,	

NOT VOTING—2.

Ross,

Stewart.

Bill defeated for engrossment and lost by the following vote:

YEAS—13.

Burges,	Lane,	Rainey,
Duncan,	Lightfoot,	Ross,
Gooch,	Martin of Navarro,	Stubbs,
Hightower,	Powers,	Tilson.
Lair,		

NAYS—14.

Buchanan of Grimes,	Homan,	Stewart,
Buchanan of Wood,	Martin of Cooke,	Swain,
Cooper,	Moore,	Weatherred,
Davenport,	Patton,	Wynne.
Henderson,	Shannon,	

(The President in the chair.)

Senate joint resolution No. 40, amending section 17, article 5, of the State Constitution, so that the number of terms of the county court, for civil and criminal business in each of the counties of this State, may be prescribed by the county commissioners' court of the counties respectively," was taken up and read second time.

Senator Rainey moved that the consideration of the resolution be postponed subject to call. Withdrawn, and bill ordered engrossed.

A message was received from the House, announcing that the House has concurred in the Senate amendments to House bill No. 365, "An act to amend sections 23 and 31 of an act entitled 'an act amendatory of and supplemental to an act entitled an act to consolidate in one act and amend the several acts incorporating the city of Houston, in Harris county,' approved April 21, 1879."

Also, that the House had passed House bill No. 307, "An act to regulate the sale of spirituous, vinous, or malt liquors, or medicated bitters; to fix the rate of occupation tax upon all persons, firms, or associations of persons engaged in the sale of spirituous, vinous or malt liquors, or medicated bitters; to define the manner and time of collecting such tax, and to affix penalties for failures to pay the same; and to repeal all laws and parts of laws in conflict with the the provisions of this act."

Senate joint resolution No. 41, entitled "Joint resolution making an appropriation for the settlement of Thomas Toby claim," was taken up and postponed for the day.

Senate bill No. 41, entitled "An act to amend article 800 of the Code of Criminal Procedure," was taken up and read second time, with the substitute of the committee.

The committee substitute was adopted and bill ordered engrossed by the following vote:

YEAS—21.

Buchanan of Grimes,	Lightfoot,	Shannon,
Buchanan of Wood,	Martin of Cooke,	Stewart,
Davenport,	Moore,	Stubbs,
Henderson,	Patton,	Swain,
Hightower,	Powers,	Tilson,
Homan,	Rainey,	Weatherred,
Lane,	Ross,	Wynne.

NAYS—3.

Cooper, Duncan, Martin of Navarro.

ABSENT, NOT VOTING—3.

Borges, Gooch, Lair.

Senator Patton, chairman of Committee on State Affairs, by leave, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 5, 1881.

Hon. L. J. Storey, President of the Senate.

Your Committee on State Affairs have duly considered House bill No. 438, entitled "An act to amend article 3971, chapter 11, of the Revised Civil Statutes, providing for the disposal of certain lands known as the Indian Reservations, and to repeal articles 3972, 3973, 3974, 3975 and 3976 of the Revised Statutes upon the same subject," and they recommend that the bill be amended by striking out all of section 1 after "shall be," in line 24, and insert "subject to the general laws applicable to and regulating the management and disposal of the other school lands belonging to the permanent school fund," and that the bill, so amended, do pass.

PATTON, Chairman.

Bill read first time.

Senator Swain entered a motion to reconsider the vote by which the Senate refused to engross Senate bill No. 39 this morning.

Senate bill No. 47 "An act to amend article 4256, chapter 10, title 84, of the Revised Civil Statutes," was taken up and read second time.

Senator Rainey offered the following amendment:

Provided, that tap railroads of a distance not more than thirty miles shall not be included in this act.

Adopted, and the bill ordered engrossed.

Senate bill No. 54, entitled "An act to amend article 1054, title 15, chapter 2, of the Code of Criminal Procedure," was taken up, read third time, and, on motion of Senator Tilson, postponed for the day.

Senate bill No. 55, entitled "An act to amend article 6 of the Constitution of the State of Texas, by adding to said article a section restricting suffrage in Texas to those who pay their taxes, and to prescribe an oath to be taken before voting, if required by challenge," was taken up, read second time, and, on motion of Senator Hightower, was postponed for the day.

Senate bill No. 56, entitled "An act to make penal any disclosures of proceedings or divulgements of secrets of the grand jury," was taken up and read second time.

Senator Martin of Cooke moved a call of the Senate. Motion seconded.

Roll called, and Senate announced full.

The committee amendment was adopted, and the bill ordered engrossed.

Senator Buchanan of Wood, by leave, presented a petition of citizens of Rockwall county, asking that the jurisdiction of the county court of that county be diminished; also, a protest of the commissioners' court and other citizens of Rockwall county against diminishing the jurisdiction of said county court. The petition and protest were referred to Committee on Counties and County Boundaries.

On motion of Senator Lair, the Senate adjourned until 9:30 A. M. on Monday.

FORTY-SEVENTH DAY.

SENATE CHAMBER,
AUSTIN, March 7, 1881. }

Senate met pursuant to adjournment; President in the chair.

Roll called; quorum present.

Prayer by the Chaplain.

On motion of Senator Swain the reading of the journal of Saturday was dispensed with and the same adopted.

Senator Hightower, for Committee on Privileges and Elections, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 7, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Privileges and Elections, to whom was referred Senate bill No. 266, "An act to amend articles 1673, 1678, 1694, 1696 and 1701 of the Revised Civil Statutes," have considered the same, and a majority of said committee instruct me to report it back to the Senate with the recommendation that it do not pass. The bill provides nine managers of election at each voting place, to be divided into receiving managers and counting managers, with two ballot boxes, to be used alternately as receiving boxes and counting boxes. Necessarily, a large number of election managers are appointed, who are unskilled in the application of legal rules, and in keeping and expressing their action in those legal forms prescribed for the conduct and return of elections, which are required to furnish evidence that such elections have been conducted according to law. In many instances, occurring all over the State, the utmost indulgence, consistent with propriety, is necessary to be exercised to hold such returns legally valid, even under our present law, as the returns of our last general State election abundantly shows.

The provisions of this bill make the machinery of these elections more complicated and, consequently, increase the danger of insufficient returns, and of that confusion, and possible litigation, concerning the results of elections consequent thereon.

I am instructed by said committee to report the following as a substitute for said bill and to recommend the passage of said substitute:

Substitute for Senate bill No. 266, a bill to be entitled "An act to amend article 1698 of the Revised Civil Statutes of the State of Texas, adopted February 28, 1879:"

Section 1. *Be it enacted by the Legislature of the State of Texas*, That article 1698 of the Revised Civil Statutes of the State of Texas, adopted February 28, 1879, shall hereafter read as follows:

Art. 1698. When the ballots have all been counted, the managers of election shall make out returns of the same, and shall endorse thereon a statement of the aggregate number of ballots cast at such voting place on the day of election, and shall sign said returns, which shall be sealed up in an envelope and delivered, by one of the managers of the election, to the county judge of the county; and a duplicate of such returns shall be kept by the presiding officers for twelve months from the day of election.

HIGHTOWER for Committee.

Bill read first time with substitute.

Senator Stewart, chairman of Judiciary Committee No. 2, submitted the following reports:

COMMITTEE ROOM,
AUSTIN, March 5, 1881.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 231, a bill to be entitled "An act to amend article 1000, of section 2, of an act entitled 'an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas,' passed February 21, 1879," have had the same under consideration, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it do pass.

STEWART, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, March 5, 1881.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 232, a bill entitled "An act to amend article 816, of section 2, of an act entitled 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,' passed February 21, 1879," have had the same under consideration, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it do not pass.

STEWART, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, March 5, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Judiciary No. 2, to whom was referred Substitute House bills Nos. 329 and 339, "An act to amend articles 423, 424, 425, 426, 427, 428, 429 and 430a, and to create article 426½, and to repeal article 430, of chapter 5, title 13, of the Penal Code of the Revised Statutes, for the protection of fish and game," have had the same under consideration, and I am instructed by the committee to